

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA
EX REL WAYNE O. AULTMAN, II

v.

MATT HOLM, WARDEN

CIVIL ACTION

NO. 08-1494

ORDER

AND NOW, this 30th day of September, 2008, upon consideration of the Petition for Writ of Habeas Corpus filed Under 28 U.S.C. § 2241 and respondent's opposition thereto, and after review of the Report and Recommendation of United States Magistrate Judge L. Felipe Restrepo, it is hereby ORDERED that:

1. The Report and Recommendation is APPROVED and ADOPTED;
2. The Petition for Writ of Habeas Corpus is DISMISSED, without prejudice;
3. A certificate of appealability shall not issue since, for the reasons set forth in the Report and Recommendation, a reasonable jurist could not conclude that the Court is incorrect in dismissing the habeas petition without prejudice.

BY THE COURT:


J. CURTIS JOYNER, J.